

electronic batch filing (electronic data interchange or EDI) of tariff information. When using third-party software for batch filing, all data must be formatted into the appropriate transaction sets before it can be batch filed to the Commission through the ATFI system. The transaction set formats are available to the public in the ATFI "Batch Filing Guide." See § 514.8(d)(3).

Transshipment means the physical transfer of cargo from a vessel of one carrier to a vessel of another in the course of all-water or through transportation, where at least one of the exchanging carriers is a vessel-operating carrier subject to the FMC's jurisdiction. See § 514.15(b)(13).

Usage means the use of terminal facility by any rail carrier, lighter operator, trucker, shipper or consignee, its agents, servants, and/or employees, when it performs its own car, lighter or truck loading or unloading, or the use of said facilities for any other gainful purpose for which a charge is not otherwise specified. See "terminal services" and § 514.15(b)(23).

Validity check means a system review of certain items in filings to check conformity with reference tables outlined in the transaction sets and standard glossaries employed in ATFI, e.g., origin and destination locations must be correctly spelled and be members of the ATFI locations glossary. See § 514.8(n)(1)(ii).

Via port(s) means the port or port group at which a vessel calls for through transportation of cargo from another origin and/or to another destination.

Wharf demurrage means a charge assessed against cargo remaining in or on terminal facilities after the expiration of free time, unless arrangements have been made for storage. See "terminal services."

Wharfage means a charge assessed against the cargo or vessel on all cargo passing or conveyed over, onto, or under wharves or between vessels (to or from barge, lighter, or water), when berthed at wharf or when moored in slip adjacent to wharf. Wharfage is solely the charge for use of wharf and does not include charges for any other service. See "terminal services" and § 514.15(b)(23).

Workdays (domestic offshore commerce) means all days except Saturdays, Sundays, and all federal holidays observed in the District of Columbia. See § 514.9(b)(24)(ii).

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§ 514.3 Exemptions and exclusions.

Applications for exemptions are governed by § 502.69 of this chapter. The following exemptions are granted from certain described requirements of this part:

(a) *Certain services involved in the following:*

(1) *Equipment interchange agreements.* Equipment-interchange agreements between common carriers subject to this part and inland carriers, where such agreements are not referred to in the carriers' tariffs and do not affect the tariff rates, charges or practices of the carriers, are exempt from the tariff filing requirements of the 1984 Act and the rules of this part. See §§ 514.12(b)(3) and 514.15(b)(21).

(2) *Controlled common carriers in foreign commerce.* A controlled common carrier shall be exempt from the provisions of this part exclusively applicable to controlled common carriers (See § 514.4(c)) when:

(i) The vessels of the controlling state are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

(ii) The controlling state subscribed, as of November 17, 1978, to the shipping policy statement contained in note 1, Annex "A" of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development;

(iii) As to any particular rate, the controlled common carrier's tariff contains an amount set by the duly authorized action of a ratemaking body, except that this exemption is inapplicable to rates established pursuant to an agreement in which all the members are controlled common carriers not otherwise excluded by this paragraph (see § 514.9(b)(24)(i)(A));

(iv) The controlled common carrier's rates, charges, classifications, Tariff

Rules or regulations govern transportation of cargo between the controlling state and the United States, including its districts, territories and possessions (see § 514.9(b)(24)(i)(B)); or

(v) The controlled common carrier operates in a trade served exclusively by controlled common carriers (see § 514.9(b)(24)(i)(C)).

(3) [Reserved]

(4) *Marine terminal operations of DOD.*

When the Department of Defense (including the military department and all agencies of the Department of Defense) carries on the business of furnishing wharfage, dock, warehouse, or other terminal facilities, as defined in § 514.2, it shall be exempt from the terminal tariff filing and publication requirements of this part.

(5)–(6) [Reserved]

(7) *Terminal barge operators in Pacific Slope States.* Transportation provided by terminal barge operators in Pacific Slope States barging containers and containerized cargo by barge between points in the United States are exempt from the tariff filing requirements of 1984 Act and the rules of this part, where:

(i) The cargo is moving between a point in a foreign country or a non-contiguous State, territory, or possession and a point in the United States;

(ii) The transportation by barge between points in the United States is furnished by a terminal operator as a service substitute in lieu of a direct vessel call by the common carrier by water transporting the containers or containerized cargo under a through bill of lading; and

(iii) Such terminal operator is a Pacific Slope State, municipality, or other public body or agency subject to the jurisdiction of the Federal Maritime Commission, and the only one furnishing the particular circumscribed barge service in question as of January 2, 1975.

(8) *Certain terminal services.* (i) The filing requirements of this part do not apply to rates and charges for storage of cargo and services incidental thereto by public warehousemen pursuant to storage agreements covered by issued warehouse receipts.

(ii) Rates, charges, rules and regulations governing terminal services pro-

vided to and paid for by common carriers by water pursuant to a marine terminal services agreement as defined in § 572.310(a) of this chapter, need not be separately filed in tariffs for the purposes of this part, on condition that such rates, charges, rules and regulations are not determined through a marine terminal conference agreement, as defined in § 572.307(b) of this chapter.

(iii) Rates, charges, rules and/or regulations which but for paragraph (a)(8)(ii) of this section would be subject to the tariff-filing requirements of this part may not unilaterally impose exculpatory provisions of a nature prohibited by § 514.4(b)(3)(ii).

(9) *Terminal tariffs; electronic format requirements.* Marine terminal tariffs are exempt from the commodity-description and TLI-object requirements of this part, but only to the extent necessary to accommodate electronic filing of such tariffs in full-text format in Tariff Rule 34 (§ 514.15(b)(34)).

(10) [Reserved]

(b) *Certain cargo types*—(1) *Bulk, forest products, etc.* (i) Except as provided in paragraphs (b)(1)(ii) and (iii) of this section, this part does not apply to bulk cargo, forest products, recycled metal scrap, waste paper and paper waste in foreign tariffs, terminal tariffs or service contracts.

(ii) Marine terminal operators, carriers or conferences which voluntarily file tariff or service contract provisions covering otherwise exempt transportation thereby subject themselves to all statutory provisions and the requirements of this part, including the requirement to adhere to the filed tariff provisions or service contracts.

(iii) An exempt commodity listed in paragraph (b)(1) of this section may be included in a service contract filed with the Commission only if:

(A) There is a tariff of general applicability for the transportation which contains a specific commodity rate for the exempted commodity; or

(B) The contract itself sets forth a rate or charge which will be applied if the contract is rejected or otherwise terminated.

(2) *Mail in foreign commerce.* Transportation of mail between the United States and foreign countries is exempt

from the filing requirements of the 1984 Act and the rules of this part.

(3) *Used military household goods—NVOCCs.* Transportation of used military household goods and personal effects by non-vessel-operating common carriers is exempt from the filing requirements of the 1984 Act and the rules of this part.

(4) *Department of Defense cargo in foreign commerce.* Transportation of U.S. Department of Defense cargo moving in foreign commerce under terms and conditions negotiated and approved by the Military Sealift Command ("MSC") and published in a rate guide, quotation or tender is exempt from the tariff filing requirements of the 1984 Act and the rules of this part. An exact copy of the rate guide, quotation or tender, including any amendments thereto, shall be filed in paper format with the Commission as soon as it becomes available.

(5) *Used household goods—General Services Administration.* Transportation of used military household goods and personal effects by non-vessel-operating common carriers shipped by federal civilian executive agencies under the International Household Goods Program administered by the General Services Administration is exempt from the filing requirements of the 1984 Act and the rules of this part.

(c) *Certain locations in foreign commerce—*(1) *Between foreign countries.* This part does not apply to transportation of cargo between foreign countries, including that which is transshipped from one ocean common carrier to another (or between vessels of the same common carrier) at a U.S. port or transferred between an ocean common carrier and another transportation mode at a U.S. port for overland carriage through the United States, where the ocean common carrier accepts custody of the cargo in a foreign country and issues a through bill of lading covering its transportation to a foreign point of destination.

(2) *Between Canada and U.S.* The following services are exempt from the filing requirements of the 1984 Act and the rules of this part:

(i) *Prince Rupert and Alaska—*(A) *Vehicles.* Transportation by vessels operated by the State of Alaska between

Prince Rupert, Canada and ports in southeastern Alaska, if all the following conditions are met:

(1) Carriage of property is limited to vehicles;

(2) Tolls levied for vehicles are based solely on space utilized rather than the weight or contents of the vehicle and are the same whether the vehicle is loaded or empty;

(3) The vessel operator does not move the vehicles on or off the ship; and

(4) The common carrier does not participate in any joint rates establishing through routes or in any other type of agreement with any other common carrier.

(B) *Passengers.* Transportation of passengers, commercial buses carrying passengers, personal vehicles and personal effects by vessels operated by the State of Alaska between Seattle, Washington and Prince Rupert, Canada, only if such vehicles and personal effects are the accompanying personal property of the passengers and are not transported for the purpose of sale.

(ii) *British Columbia and Puget Sound Ports; rail cars—*(A) *Through rates.* Transportation by water of cargo moving in rail cars between British Columbia, Canada and United States ports on Puget Sound, and between British Columbia, Canada and ports or points in Alaska, only if the cargo does not originate in or is not destined to foreign countries other than Canada, but only if:

(1) The through rates are filed with the Interstate Commerce Commission and/or the Canadian Transport Commission; and

(2) Certified copies of the rate divisions and of all agreements, arrangements or concurrences, entered into in connection with the transportation of such cargo, are filed with the Commission within 30 days of the effectiveness of such rate divisions, agreements, arrangements or concurrences.

(B) *Bulk; port-to-port.* Transportation by water of cargo moving in bulk without mark or count in rail cars on a local port-to-port rate basis between ports in British Columbia, Canada and United States ports on Puget Sound, only if the rates charged for any particular bulk type commodity on any

one sailing are identical for all shippers, except that:

(1) This exemption shall not apply to cargo originating in or destined to foreign countries other than Canada; and

(2) The carrier will remain subject to all other provisions of the Shipping Act of 1984.

(iii) *Incan Superior, Ltd.* Transportation by Incan Superior, Ltd. of cargo moving in railroad cars between Thunder Bay, Ontario, and Superior, Wisconsin, only if the cargo does not originate in or is not destined to foreign countries other than Canada, and if:

(A) The through rates are filed with the Interstate Commerce Commission and/or the Canadian Transport Commission; and

(B) Certified copies of the rate divisions and of all agreements, arrangements or concurrences entered into in connection with the transportation of such cargo are filed with the Commission within 30 days of the effectiveness of such rate divisions, agreements, arrangements or concurrences.

(d) *Domestic offshore commerce—(1) Notice requirements; general.* Carriers engaged in the transportation by water of passengers or property on the high seas or the Great Lakes on regular routes from port to port between Alaska, Hawaii, a Territory, District or possession of the United States and any other State, Territory, District or possession of the United States, or between places in the same Territory, District, or possession, may publish:

(i) On one day's notice, any new or amendatory tariff matter that does not result in an increased cost to the shipper. This exemption may not apply to any decrease which is part of a "general decrease in rates" as defined by section 1 of the 1933 Act. See § 514.2; and

(ii) On seven workdays' notice, any new or amendatory tariff matter that results in an increased cost to the shipper. This exemption may not apply to any increase which is part of a "general increase in rates" as defined by section 1 of the 1933 Act (see § 514.2), or any increase which is part of an "across-the-board" increase in rates as defined in § 514.2.

(2) *Alaska—(i) Bethel—Kuskokwim Bay.* Transportation between Bethel, Alaska and points in the Kuskokwim

Bay region in the range from Platinum to Mekoryuk is exempt from the filing requirements of the 1916 Act and the rules of this part.

(ii) *Seattle—S.E. Alaska on State-of-Alaska operated vessels.* Transportation of passengers, commercial buses carrying passengers, personal vehicles and personal effects by vessels operated by the State of Alaska between Seattle, Washington, and ports in Southeastern Alaska, is exempt from the filing requirements of the 1916 Act and the rules of this part, only if said personal vehicles and personal effects are not transported for the purpose of sale, lease, or other commercial activities.

(3) [Reserved]

(4) *Puerto Rico—(i) Bulk liquid cargo.* Transportation between the continental United States and Puerto Rico of bulk liquid cargoes in quantities of not less than 200,000 gallons per shipment (i.e., a single shipper to a single consignee) is exempt from the filing requirements of the 1916 Act and the rules of this part, only if such shipments are carried in tank vessels designed exclusively for bulk liquid cargoes and which are certified under regulations approved by the U.S. Coast Guard pursuant to 46 U.S.C. 3306.

(ii) [Reserved]

(5) [Reserved]

(e) *Electronic filing.* A temporary exemption from the electronic filing requirements of this part may be obtained by application under § 514.8(a), but, during the period of such exemption and unless otherwise exempted by this part, tariff material is required to be filed in paper format.

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§ 514.4 Content, filing and cancellation of tariff material; general.

(a) *Effectiveness of new or initial and conference tariffs in the domestic offshore and foreign trades.* Unless otherwise provided by the Commission or this part, all conference and carrier tariff material tendered for filing (including the tariffs of carriers entering a trade for the first time), shall bear an effective date which complies with the appropriate notice period(s) prescribed in